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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,835	11/14/2003	C. Barclay Whitmore	56463-00006USPT	2576
23932	7590	09/21/2005	EXAMINER	
JENKENS & GILCHRIST, PC 1445 ROSS AVENUE SUITE 3200 DALLAS, TX 75202			SAVAGE, MATTHEW O	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,835

Applicant(s)

WHITMORE ET AL.

Examiner

Matthew O. Savage

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7-11-05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 12-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>See page 2</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicant's election of group I in the reply filed on 7-11-05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The information disclosure statements filed on 4-19-05, 6-25-04, 5-24-04, and 5-6-04 have been considered. Initialed copies of the PTO 1449 forms are attached hereto.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by DePaul et al.

With respect to claim 1, DePaul et al disclose a system for purifying fluid, the system including a filtration canister 121 for filtering particulates from the fluid (see FIGS. 12 and 17, and a separate evaporation canister 149 for removing liquid contaminants by evaporation.

Regarding claims 2 and 3, the limitations to the "fluid" relate to intended use and carry no patentable weight.

Concerning claim 4, DePaul et al disclose a filter element 138 for filtering the particulates from the fluid (see FIG. 12), and a head 126 for providing an upper seal to

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the filtration canister and a means 131 for mounting the filtration canister. It is noted that the "means" has been construed broadly since the structure corresponding to the means been broadly disclosed in the specification.

As to claim 8, DePaul et al disclose the evaporator canister as including a head 156 for sealing an upper portion of the evaporation canister, an evaporator 154 for receiving filtered fluid from the filtration canister, and a heating wand 155 for heating the fluid to release liquid contaminants.

Regarding claim 9, DePaul et al disclose the evaporator 154 as being manufactured as a cup with exterior ridges 162 for impeding the flow of the fluid.

Concerning claim 11, DePaul et al disclose a metering valve 158 located between the filtration canister and the evaporation canister.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over DePaul et al in view of Spitzberg.

With respect to claim 5, DePaul et al disclose a first orifice 132 for receiving oil from an engine and a second orifice 133 for receiving filtered oil but fail to specify a compression ring for pressing against a portion of the filter element and a gasket for sealing the head against the filtration canister. Spitzberg discloses an analogous filter

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including a compression ring 13 for pressing against a portion of a filter element 12 and a gasket for sealing a head 4 against a filtration canister 1 and suggests that such a filter arrangement can utilize known cylindrical filter elements (see lines 14-20 of col. 3). It would have been obvious to have modified the filter of DePaul so as to have included the details of the filtration canister as suggested by Spitzberg in order to provide a filter canister capable of using cylindrical filter elements that were known in the art.

As to claim 6, Spitzberg discloses the the filtration canister as including a threaded stud 7 for securing the filtration canister 1 and the head 4, and a sampling valve (e.g., the drain plug 3 including the petcock) capable of sampling fluid from the filtration canister.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over DePaul et al in view of Wheeler.

DePaul fails to specify a shut-off valve for preventing flow of fluid into the filtration canister. Wheeler discloses a shut-off valve for preventing the flow of oil into a filtration canister 26 and suggests that such an arrangement enables changing of the filter element without interrupting engine operation. It would have been obvious to have modified the apparatus of DePaul so as to have included the shut-off valve as suggested by Wheeler in order to enable changing of the filter element without interrupting engine operation.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over DePaul et al in view of Landry.

With respect to claim 10, DePaul discloses a conduit for receiving and removing vaporized liquid contaminants from the evaporation canister but fails to specify a visual indicator for alerting a user as to whether electrical power is supplied to the heating wand. Landry broadly discloses the concept of providing a visual indicator in the form of a light 27 for alerting a user as to whether electrical power is being provided to a heater 13. It would have been obvious to have modified the apparatus of DePaul so as to have included a visual indicator for alerting a user as to whether or not electrical power is supplied to the heater as suggested by Landry in order to provide an indication of proper operation of the heating wand.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O. Savage whose telephone number is (571) 272-1146. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

M. Savage
Matthew O Savage
Primary Examiner
Art Unit 1724

mos
September 19, 2005